

United States District Court

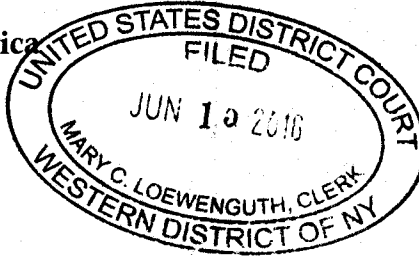
for the
Western District of New York

United States of America

v.

TONY IVEY,

Defendant



Case No. 16-MJ- 4073

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of June 14, 2016, in the County of Monroe, in the Western District of New York, the defendant violated 18 U.S.C. §115(a)(1)(B), said offense described as follows:

the defendant did threaten to assault or murder a Federal law enforcement officer with intent to impede, intimate or interfere with such law enforcement officer while engaged in the performance of official duties in violation of Title 18, United States Code, Section 115(a)(1)(B).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

Abhay Dave, Senior Inspector
United States Marshals Service

Printed name and title

Sworn to before me and signed in my presence.

Date: June 15, 2016

Judge's signature

City and State: Rochester, New York

HONORABLE MARIAN W. PAYSON
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE)
CITY OF ROCHESTER)

SS:

16-mj-4073

ABHAY DAVE, being duly sworn, deposes and states:

1. I have been employed with the United States Marshals Service (USMS) for 10 years. I currently hold the position of Protective Intelligence Investigator (PII) within the USMS, responsible for investigating and appropriately mitigating all threats and inappropriate communications toward the federal judiciary, its respective court officers and the U.S. Attorney's Office in and for the Western District of New York.

2. As part of my current duties, I have become involved in an investigation of a suspected violation of Title 18, United States Code, Section 115(a)(1)(B) (Influencing, Impeding or Retaliating Against a Federal Official).

3. I make this affidavit in support of the annexed criminal complaint charging TONY IVEY, with a violation of Title 18, United States Code, Section 115(a)(1)(B), regarding threats made to assault members of the United States Attorney's office, with the intent to impede, intimidate or interfere with such law enforcement officers and officials.

4. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only facts that I believe are necessary to establish probable

cause to demonstrate that TONY IVEY has violated Title 18, United States Code, Section 115(a)(1)(B).

5. On or about June 14, 2016, your affiant was contacted by an Assistant U.S. Attorney (AUSA), who is based in the Rochester Office of the U.S. Attorney for the Western District of New York, regarding threatening statements that were directed towards him by TONY IVEY. IVEY had apparently contacted the U.S. Attorney's Office previously on or about June 13, 2016, and had complained about the Rochester Housing Authority in a separate case. In these earlier calls, IVEY would become verbally abusive and agitated.

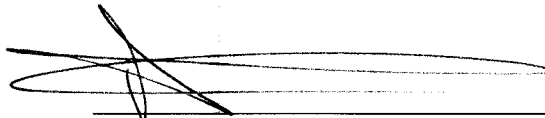
6. IVEY contacted the U.S. Attorney's Office again on or about June 14, 2016 and spoke with the AUSA. After IVEY identified himself, the AUSA attempted to advise IVEY that the U.S. Attorney's Office would not be able to assist IVEY with his complaints. The AUSA tried to explain to IVEY that he could assist with directing IVEY to other entities for assistance when IVEY became agitated and claimed that his civil rights were being violated. As the telephone conversation continued, IVEY became verbally abusive and stated to the AUSA that he was going to go to the AUSA's office with an assault weapon and shoot people. IVEY further stated he was willing to die.

7. After IVEY conveyed his initial threats, the AUSA began to record his telephone conversation with IVEY using his iPhone. IVEY can be heard in the recording referring to the AUSA and other members of the "system" as "racist mother fuckers". IVEY continues in the recording to state, "what.. a mother fucker got to go get a god damn assault rifle to get their own god damn justice...". In another recording, IVEY stated that the AUSA is "full of shit" like "the rest of the racist motherfuckers". IVEY went on to say,

“that’s the shit that make a mother fucker start killing you mother fucker”...”because of white racist mother fuckers like you, mother fucker.” The AUSA captured the caller’s phone number to be 585-XXX-1238.

8. The USMS was able to procure location information related to the cell phone number ending in the four digits 1238. Based on that information, USMS Deputies were dispatched to Cheektowaga, New York. Later, in the early evening of June 14, 2016, at 15 Westland Parkway, Cheektowaga, New York, Deputy U.S. Marshal (DUSM) Daniel Depetrocellis met with and spoke with IVEY in person. After being given his *Miranda* warnings, IVEY stated, in sum and substance, that he was indeed the individual who had called the United States Attorney’s Office earlier on June 14, 2016. IVEY stated to DUSM Depetrocellis that, “you are the type of people that provoke Orlando”. IVEY further stated, “I wish I had a gun, I just don’t have access....but I would if I got them, do that shit I would.”

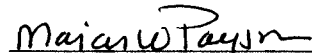
9. Based on the foregoing, your affiant respectfully submits that there is probable cause to believe that TONY IVEY has violated Title 18, United States Code, Section 115(a)(1)(B).

A handwritten signature in black ink, appearing to read 'Abhay Dave', is written over a horizontal line.

Abhay Dave, Senior Inspector, USMS

Sworn to and subscribed to before me

this 15 day of June, 2016.

A handwritten signature in black ink, appearing to read 'Marianne W. Payson', is written over a horizontal line.

HONORABLE MARIAN W. PAYSON
UNITED STATE MAGISTRATE JUDGE